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October 13, 2005

Sharla Dillon, Docket Room  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

RE: IBFA Acquisition Company, LLC  
Docket No. 05-00151

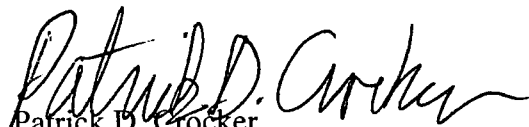
Dear Ms. Dillon:

In accordance with Staff Member, Darlene Standley's correspondence dated September 27, 2005, please find an original and four (4) copies of responses to this data request plus an electronic copy.

Please contact the undersigned should you have any questions or concerns.

Very truly yours,

EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

  
Patrick D. Crocker  
by DDC

PDC/tlb

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1. In regard to question 1 in our previous correspondence, please clarify whether IBFA will be reselling the long distance services of Cost Plus Communications, LLC.

**Response:** IBFA intends to resell Cost Plus along with other wholesale providers.

2. Please clarify your statement in response to question 1 that “As a non-facilities-based wholesale provider, Cost Plus need not secure a certificate.” Upon what statute or rule is IBFA resting this assumption? Please explain why you assert that Tenn. Code Ann. § 65-4-101 (6) and § 65-4-201 (b) do not apply to IBFA and Cost Plus Communications, LLC.

**Response:** TCA 65-4-101(6) does not apply because Cost Plus does not provide any “telecommunications services” within the State of Tennessee “dedicated to the public use” as is required by this section in order to be a “public utility.” Cost Plus has no customers or subscribers in the State, no physical presence, and does not bill any customers or subscribers in the State. The services of Cost Plus are not offered to the public in the State.

TCA 65-4-201(b) does not apply because Cost Plus does not provide telecommunication services “for hire” within the State as required by TCA 65-4-101(8) since no member of the public can subscribe to the services of Cost Plus in Tennessee.

While Cost Plus does not have any facilities in Tennessee, calls carried by Cost Plus are translated through its soft switches in Texas and are terminated over the internet. Thus, if the ownership and use of soft switches located outside the state of Tennessee could make Cost Plus “facilities based,” then Cost Plus does not meet the definition of “Reseller” as contained in TRA Rule 1220-4-2.57(1)(f).

3. IBFA's response to question 3 of the previous request indicated the Asset Purchase Agreement between IBFA and American Farm Bureau, Inc. was attached as Exhibit A. However, there were no attachments to the response. Please provide a copy of the Asset Purchase Agreement to become a part of the record in this docket.

**Response:** Attached as Exhibit A, please find exhibit previously excluded.

4. In response to question 4 of the previous response, IBFA states that “IBFA Acquisition Company, LLC intends to transact business in Tennessee under the name “Farm Bureau Connection” upon receiving approval by the TRA and Secretary of State” Does IBFA intend to amend its Application for Certificate to Provide Competing Local and Interexchange Telecommunications Services in Tennessee, TRA Docket Number 05-00151, to include the assumed name of Farm Bureau Connection? If so, please provide the required \$20,000 corporate surety bond in the complete name under which the company intends to conduct business in Tennessee and a certificate from the Secretary of State’s Office in the company’s complete business name.

**Response:** Attached as Exhibit B, please find an amended application and tariff to include the fictitious name of Farm Bureau Connection. Applicant will forward a revised letter of credit and SOS documentation which shall reflect the fictitious name documentation.

## **EXHIBIT A**

## **ASSET PURCHASE AGREEMENT**

**THIS ASSET PURCHASE AGREEMENT** (this "Agreement") dated as of January 31, 2005, executed by AMERICAN FARM BUREAU, INC., ("Seller"), and IBFA ACQUISITION COMPANY, LLC, ("Buyer"), is made in consideration of the mutual covenants and agreements contained herein and provides as follows:

### **ARTICLE I** **PURCHASE OF ASSETS**

**1.1 Purchase of Assets.** Subject to the terms and conditions set forth in this Agreement, the Seller shall convey, transfer, assign and deliver to the Buyer, and the Buyer shall acquire and assume from the Seller, all of the Seller's right, title and interest in and to, and specified obligations under, the following assets used in or held for use by the Seller (other than the Excluded Assets) in the business of the Seller performed under the names Farm Bureau Connection, FB Connection, FB Connect and Cost Plus Communications (the "Business") as the same exist as of the Closing Date, whether tangible or intangible and whenever and wherever located (the "Assets"):

(a) All phone equipment located at 1850 Howard Street, Unit C, Elk Grove Village, Illinois 60007, along with customer service module, PBX and associated equipment, and equipment list of servers, computers, and furniture on a schedule to be mutually agreed upon by the parties, except for Assets that are deemed obsolete or no longer are owned or in the possession of the Seller. (A copy of the equipment appears as Schedule 1.1(a)).

(b) A non-exclusive, non-transferable license to use the designation FB Country only to convey to customers of the Business the location of the hyperlinks identified by the Farm Bureau Connection, FB Connection, and FB Connect, and Cost Plus Communications. The following shall be specifically excluded from this transaction, and otherwise not transferred: FB Apparel, FB Grainger, FB Satellite, FB Auction, FB Acres and all associated member service programs. Purchaser shall be licensed the use of FB Country name, Farm Bureau Connection name, FB Connection name and the FB Connect name from the American Farm Bureau Federation ("AFBF") pursuant to a licensing agreement substantially in the form of Exhibit A (the "License and Royalty Agreement") and shall not purchase the names FB Country, Farm Bureau Connection, FB Connection, and FB Connect.

(c) All contracts of the Business with vendors set forth on Schedule 3.8(a), including all interconnection agreements with all major ILECS, to the extent such contracts are assignable.

(d) All PUC/PSC/FCC licenses, CPCNs and tariffs authorizing Seller to do business in all relevant states set forth on Schedule 1.1(d), to the extent assignable, or transferable.

(e) All rights to the name "Cost Plus Communications" that Seller has at the time of closing.

(f) The customer base as of the Closing Date.

(g) All relevant marketing agreements with State Farm Bureaus required in order to continue the Business.

(h) The furniture currently used by FB Connection and FB Connect personnel as set forth in Schedule 1.1(a).

(i) All causes of action, choses in action, rights of recovery and rights of set off or offset of every kind and nature directly related to the Business.

(j) All goodwill of the Business.

(k) Copies of all financial and business records and files directly pertaining to the Business.

**1.2 Assets Purchased Free of Liens.** All of the Assets shall be sold, assigned, transferred, conveyed and delivered to the Buyer, free and clear of all liens, encumbrances, or claims, except for liens, claims or encumbrances set forth on Schedule 3.5.

**1.3 Excluded Assets.** All other assets owned or used by the Seller in the Business not specifically set forth in Section 1.1 (the "Excluded Assets") shall not be conveyed, sold or transferred and are not included in the Assets. Buyer shall acquire no interest in any other assets or businesses of Seller.

**1.4 Assumed Liabilities.** Subject to the terms and conditions of, and on the basis of and in reliance upon the covenants, agreements and representations and warranties set forth in this Agreement, at the Closing, Buyer shall assume and agree to discharge when due the liabilities and obligations of the Buyer relating to its ownership or use of the Assets and the Business which arise on or after the Closing Date and liabilities and obligations arising under the Assigned Contracts after the Closing Date, as well as any and all Public Utility Commissions litigations (collectively, the "Assumed Liabilities"). The Assumed Liabilities are set forth in Schedule 1.4. In addition, the buyer shall assume the lease for 1850 Howard Street, Unit C, Elk Grove Village, IL 60007. Schedule 1.4 shall also include the lease obligations for 1850 Howard Street, Unit C, Elk Grove, Illinois 60007, which Buyer agrees to use reasonable efforts to cause the landlord to release Seller. However, if the Landlord will not release Seller, Buyer shall defend, indemnify and hold harmless Seller from any liability under the lease caused by acts or omissions of Buyer which result in a breach thereof. CAM and real estate taxes or other charges or assessments due for periods that Seller occupied the property shall be reimbursed to Buyer if Buyer is billed for the same.



**1.5 Excluded Liabilities.** Except as otherwise specifically provided for in Section 1.4, Buyer shall not assume any other liabilities of the Seller of any kind or nature, whether known or unknown as of the Closing Date or the date of subsequent transfer of any of the Assets or otherwise relating to or arising during a period prior to the Closing Date, whether fixed or contingent, and however arising (the "Excluded Liabilities"), and the transfer of the Assets pursuant to this Agreement shall be free and clear of all liabilities, liens or other obligations of the Seller of any kind whatsoever, except for Permitted Encumbrances. For the convenience of the parties, Seller shall prepare a complete list of all bills incurred prior to February 1, 2005, and a list of vendors which specifically indicate all usage charges to that date, all of which bills or charges shall be Seller's responsibility.

## **ARTICLE II** **CONSIDERATION**

**2.1 Purchase Price.** Subject to the conditions set forth in this Article II, the total purchase price (the "Purchase Price") payable for the Assets shall be One Million Five Hundred Forty Thousand (\$1,540,000) Dollars. In addition, the Buyer shall make reasonable efforts to collect accounts receivable of the Business existing on the Closing Date on behalf of the Seller as has been done in the Seller's normal course of doing business. Buyer shall promptly remit the collected accounts receivable to Seller within seven (7) days of collection. Receivable collections shall be directed to the current lock-box which shall continue to be maintained under the exclusive control of Seller. Seller shall pay Buyer eight (8%) per cent of the Business accounts receivable collected to reimburse for collection of accounts receivable to which Seller is entitled pursuant to paragraph 5.3.

### **2.2 Manner and Timing of Payment.**

(a) Subject to the conditions set forth in this Agreement, the total Purchase Price to be paid for the Assets shall be paid in cash in accordance with the following schedule:

- (i) \$50,000.00 advanced on August 31, 2004, which is to be refunded if the Closing does not occur on or before January 31, 2005;
- (ii) \$360,000 at the Closing;
- (iii) \$250,000.00 on or before August 31, 2005;
- (iv) \$250,000.00 on or before January 31, 2006;
- (v) \$390,000.00 on or before January 31, 2007; and
- (vi) \$240,000.00 for consulting fees as set forth in paragraph 2.5.

**2.3 Secured Promissory Note.** At the Closing, Buyer shall deliver its Secured Promissory Note in the form of Exhibit B, with a principal amount of \$890,000.00 plus the

\$240,000.00 Consulting Fees, or a total of \$1,130,000.00 and a Security Agreement in the form of Exhibit F. Such Note shall bear interest only to the extent Buyer has not made a required payment and shall be secured by the Assets and by the accounts receivable of Buyer and by the ongoing post-closing accounts receivable of Buyer. The Note shall provide that Buyer shall have the right of set-off for any obligations of Seller which Buyer is required to pay and which Buyer has not assumed in Schedule 1.4.

**2.4 Asset Valuation.** The Buyer and the Seller hereby agree that the Purchase Price shall be allocated as follows:

\$214,000.00 - the list referenced in paragraph 1.1(a)

\$1,086,000.00 - goodwill

\$240,000.00 - consulting fees

The parties will each report the federal, state and local and other Tax consequences of the purchase and sale contemplated hereby (including the filing of Internal Revenue Service Form 8594) in a manner consistent with such allocation schedules.

**2.5 Consulting Agreement.** Buyer shall retain the services of Seller as consultant for the period of six (6) months from the date of the Closing for the total sum of \$240,000, payable in six (6) equal monthly installments as set forth in the Consulting Agreement, Exhibit C, executed by the parties. The \$40,000.00 monthly fees shall commence on February 28, 2005, and continue on the last day of each month thereafter until July 31, 2005.

**2.6 Non-Competition Agreement.** Seller and its affiliates and Buyer and its affiliates agree not to compete with each other or their affiliates for a period of three (3) years from the date of Closing as set forth in the Non-Competition Agreement, Exhibit D, executed by the parties.

### **ARTICLE III**

#### **REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller hereby represents and warrants to the Buyer that:

#### **3.1 Corporate Organization.**

(a) The Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of Illinois and the Seller has all requisite power and authority to carry on its business as it is now being conducted and to own, lease and operate its properties where such properties and assets are now owned, leased or operated. The Certificate of Incorporation and Bylaws of the Seller, copies of which have been or will be delivered to the Buyer, are true and complete copies of such documents as in effect as of the date of this Agreement.

(b) The Seller has no direct or indirect Subsidiaries that hold title to any of the Assets or are otherwise used in the Business.

(c) American Farm Bureau Federation is the sole shareholder of the Seller.

**3.2 Authorization.** No further act or proceeding on the part of the Seller is necessary to authorize this Agreement or the other closing documents or the consummation of the transactions contemplated hereby and thereby, except for obtaining shareholder approval, which has been obtained, and regulatory approval. Assuming the due authorization, execution and delivery by Buyer of this Agreement and the other Closing Documents, this Agreement constitutes and, when executed and delivered, the other closing documents will constitute, valid and binding agreements of the Seller enforceable against the Seller in accordance with their respective terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency (including, without limitation, all laws relating to fraudulent transfers), moratorium or similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

**3.3 No Violation.** Except as disclosed in Schedule 3.3, neither the execution and delivery of this Agreement by the Seller, nor the consummation by the Seller of the transactions contemplated hereby or thereby, nor compliance by the Seller with any of the terms or provisions hereof or thereof, will (i) violate, conflict with or result in a breach of any provision of the Articles of Incorporation or Bylaws of the Seller, (ii) assuming that the consents and approvals referred to in Section 3.4 hereof are duly obtained, (x) violate any statute, code, ordinance, rule, regulation, judgment, order, writ, decree, license or injunction applicable to the Seller, or any of its properties or assets, or (y) violate, conflict with, result in a breach of any provisions of or the loss of any benefit under, constitute a default (or any event, which, with notice or lapse of time, or both would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any lien, pledge, security interest, charge or other encumbrance upon any of the properties or assets of the Seller under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which the Seller is a party, or by which the Seller or any of its properties or assets may be bound or affected, except (in the case of clause (y) above) for such violations, conflicts, breaches or defaults which, either individually or in the aggregate, will not have a material adverse effect on the Seller.

**3.4 Consents and Approvals.** To the Seller's knowledge, except for such filings, authorizations, consents or approvals as may be set forth in Schedule 3.4, no consents or approvals of, or filings or registrations with, any court, administrative agency, regulatory agency or commission or other governmental authority or instrumentality (each a "Governmental Entity") or with any third party are necessary in connection with the execution and delivery by the Seller of this Agreement and the consummation by the Seller of the transactions contemplated hereby. Schedule 3.4 sets forth all material telecommunications approvals, PUC/PSC/FCC licenses, CPCNs, tariffs and other material regulatory approvals which the Seller has obtained to operate the Business (the "Regulatory Approvals").

**3.5 Ownership of the Assets.** Except as disclosed on Schedule 3.5 ("Permitted Encumbrances"), at the Closing the Seller will be the owner of the Assets free and clear of all liens, encumbrances, charges and assessments of any nature, and except as disclosed on Schedules 3.4 and 3.5, the Assets are not subject to any restrictions with respect to transferability. The Seller has full power and authority to assign and transfer the Assets to the Buyer in accordance with the terms of this Agreement without obtaining the consent or approval of any other Person or Governmental Entity (other than the consents set forth in Schedule 3.4). The delivery of the Assets to the Buyer pursuant to this Agreement will transfer valid title thereto, free of all liens, encumbrances, charges and assessments of any kind except as set forth in Schedule 1.4.

**3.6 Legal Proceedings.** Except as set forth in Schedule 3.6, the Seller is not a party to any, and there are no pending or, to the Seller's knowledge, threatened, legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any nature against or affecting the Seller or any property or asset of the Seller, before any court, arbitrator, administrative agency or Governmental Entity, domestic or foreign, which would, if resolved against the Seller, either individually or in the aggregate, have a material adverse effect on the Seller or the Business, and the Seller has not received any written notice indicating that such a claim, action, proceeding or investigation against or affecting the Seller which would, either individually or in the aggregate, have a material adverse effect on the Seller or the Business could reasonably be expected to occur. Buyer shall assume the proceedings set forth in Schedule 3.6 from and after the date of closing with the discretion and authority set forth in said Schedule. Buyer shall notify Seller in writing if any existing or future proceedings will affect the Seller and Seller shall have the right to participate fully in said proceedings through counsel of its own choice.

**3.7 Compliance with Laws.** Except as set forth in Schedule 3.7, the Seller holds all material licenses, franchises, permits and authorizations necessary for the lawful conduct of the Business under and pursuant to all, and has complied with and is not in conflict with, or in default or violation of any (a) statutes, codes, ordinances, laws, rules, regulations, orders, judgments, injunctions or decrees, published policies and guidelines of any Governmental Entity, applicable to the Seller or by which the Business is bound or affected or (b) any note, bond, mortgage, indenture, deed of trust, contract, agreement, lease, license, permit, franchise or other instrument or obligation to which the Seller is a party or by which the Seller or Business is bound or affected, except for such instances of non-compliance that would not cause a material adverse effect; and the Seller neither knows of, nor has received notice of, any violations of any the above.

**3.8 Certain Contracts.**

- (a) Schedule 3.8(a) contains a complete and accurate list of:

(i) each contract, agreement or other arrangement that involves payment by the Seller to any third party of an amount or value in excess of \$10,000;

(ii) each contract, agreement or other arrangement that involves payment to the Seller by any third party of an amount or value in excess of \$10,000;

(iii) each lease, rental or occupancy agreement, license, installment and conditional sale agreement, and other contract affecting the ownership of, leasing of, title to, or any leasehold or other interest in, any real or personal property;

(iv) each licensing agreement or other contract with respect to intellectual property, including agreements with current or former employees, consultants, or contractors regarding the appropriation or the non-disclosure of intellectual property rights;

(v) each collective bargaining agreement and other contract to or with any labor union or other employee representative of a group of employees;

(vi) each joint venture, partnership, and other contract (however named) involving a sharing of profits, losses, costs, or liabilities by the Seller, with any other Person;

(vii) each contract containing covenants that in any way purport to restrict the Business being transferred or to limit the freedom of the Seller to engage in any line of business or to compete with any Person;

(viii) each contract providing for payments to or by any Person based on sales, purchases, or profits, other than direct payments for goods;

(ix) each power of attorney that is currently effective and outstanding;

(x) each contract for capital expenditures in excess of \$10,000.00;

(xi) each written warranty, guaranty, and or other similar undertaking with respect to contractual performance extended by the Seller other than in the ordinary course of business;

(xii) each non-competition agreement, non-solicitation agreement and confidentiality agreement that runs to the benefit of the Seller or any Stockholder with regard to the business;

(xiii) each broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting and advertising agreement;

(xiv) each contract relating to indebtedness;

(xv) each contract with any Governmental Entity;

(xvi) each contract between or among the Seller and any Affiliate of the Seller; and

(xvii) each agent agreement and resale agreement between the Seller and any agent, sub-agent, agent manager or other third party, or

Each contract, arrangement, commitment or understanding of the type described in this section and listed on Schedule 3.8(a), is referred to herein as a "Seller Contract."

(b) Except as set forth in Schedule 3.8(b) hereto, (i) each Seller Contract is in full force and effect and, subject to the effect of any applicable bankruptcy, reorganization, insolvency (including, without limitation, all laws relating to fraudulent transfers), moratorium or similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), is legal, valid and binding upon the Seller, assuming due authorization of the other party or parties thereto, (ii) the Seller has in all material respects performed all obligations required to be performed by it to date under each such Seller Contract, and (iii) no event or condition exists which constitutes or, after notice or lapse of time or both, would constitute, a material default on the part of the Seller under any such Seller Contract.

**3.9 Intellectual Property.** To the Seller's knowledge, the Seller owns or has a right to use through valid and binding licenses, common law rights and/or other rights without payment of any material amount all material patents, copyrights, trade secrets, trade names, service marks, trademarks, domain names, software and other intellectual property used in the Business, which are set forth in Schedule 3.9, and the Seller has not received any notice of conflict with respect thereto that asserts the right of others. The Seller has performed in all material respects all the obligations required to be performed by it with respect to the items of intellectual property set forth in Schedule 3.9 and is not in material default under any contract, agreement, arrangement or commitment relating to any of the foregoing.

**3.10 Agreements with Regulatory Agencies.** Except as set forth in Schedule 3.10 hereto, the Seller is not subject to any cease-and-desist or other order issued by, or is a party to any written agreement, consent agreement or memorandum of understanding, commitment letter, suspension order, or similar undertaking (each a "Regulatory Agreement") with any regulatory agency or any other Governmental Entity that restricts the conduct of its business in any material

respect, nor has the Seller been notified by any regulatory agency or any other Governmental Entity that it is considering issuing or requesting any Regulatory Agreement.

**3.11 Adequacy of Assets.** The Assets constitute all of the material assets held for use or used in connection with the Business as currently conducted by the Seller (other than the Excluded Assets).

**3.12 Brokers Fees.** Neither the Seller nor any of its officers or directors, has employed any broker or finder or incurred any liability for any broker's fees, commissions or finder's fees in connection with any of the transactions contemplated by this Agreement.

#### **ARTICLE IV**

#### **REPRESENTATIONS AND WARRANTIES OF BUYER**

Buyer hereby represents and warrants to the Seller as follows:

**4.1 Corporate Organization and Qualification.** Buyer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Michigan. Buyer has the power and authority to own or lease all of its properties and assets and to carry on its business as it is now being conducted, and is or will be duly licensed or qualified to do business in each jurisdiction in which the nature of the business conducted by it or the character or location of the properties and assets owned or leased by it makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not have a material adverse effect on Buyer.

**4.2 Authority; No Violations.**

(a) Buyer has full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Buyer and the consummation by Buyer of the transactions contemplated hereby have been duly and validly authorized by all requisite corporate action on the part of Buyer. No further proceedings on the part of Buyer are necessary to approve this Agreement and to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Buyer and (assuming the due authorization, execution and delivery by the Seller) constitutes a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to the effect of any applicable bankruptcy, reorganization, insolvency (including, without limitation, all laws relating to fraudulent transfers), moratorium or similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(b) Neither the execution and delivery of this Agreement by Buyer, nor the consummation by Buyer, as the case may be, of the transactions contemplated hereby, nor compliance by Buyer with any of the terms or provisions hereof, will (i) violate, conflict with or result in a breach of any provision of the Certificate of organization of Buyer, or (ii)(x) violate

any statute, code, ordinance, rule, regulations, judgment, order, writ, decree or injunction applicable to Buyer or any of its properties or assets, or (y) violate, conflict with, result in a breach of any provisions of or the loss of any benefit under, constitute a default (or any event which, with notice or lapse of time, or both, would constitute a default) under, result in the termination of or a right of termination or cancellation under, accelerate the performance required by, or result in the creation of any lien, pledge, security interest, charge or other encumbrance upon any of the terms, conditions or provisions of any note, bond, mortgage, indenture, deed of trust, license, lease, agreement or other instrument or obligation to which Buyer is a party, or by which it or any of its properties or assets may be bound or affected, except (in the case of clause (y) above) for such violations, conflicts, breaches or defaults which, either individually or in the aggregate, will not have a material adverse effect on Buyer.

**4.3 Broker's Fees.** Neither Buyer, nor any of its officers or directors, has employed any broker or finder or incurred any liability for any broker's fee, commission or finder's fee in connection with any of the transactions contemplated by this Agreement.

**4.4 Regulatory Approvals.** Schedule 4.4 sets forth all Regulatory Approvals which must be obtained by Buyer to operate the Business as currently operated by Seller.

**4.5 No Knowledge of Breach.** Neither Buyer nor any of its officers or directors believes, or has any reason to believe, that the representations and warranties of Seller are not true and correct in all material respects.

## ARTICLE V

### COVENANTS OF THE SELLER AND BUYER

**5.1 Management of the Business; Conduct of the Business Pending Closing.** Buyer and the Seller agree that until the Closing Date or the Agreement is terminated, whichever shall occur first, (the "Pre-Closing Period"), the Seller shall manage the business in all respects.

(a) Conduct of Business in Normal Course. Until the Closing the Seller shall carry on its business and activities diligently and in substantially the same manner as they previously have been carried on.

(b) Preservation of Business and Relationships. Until the Closing the Seller shall use commercially reasonable efforts, without making any commitments on behalf of the Buyer, to preserve the Business organization intact, to keep available the employees of the Business and to preserve the relationships of the Business with suppliers, customers and others having business relationships with it.

(c) No Asset Acquisition or Disposition. Until the Closing the Seller will make no material acquisition or disposition of Assets, nor incur any additional indebtedness related to the Business or the Assets, provided, that the Seller may enter into new customer contracts in the normal course generally consistent with past practice.



(d) Liens. The Seller shall not take any actions to create any liens or encumbrances other than Permitted Liens.

(e) Contracts. During the Pre-Closing Period, the Seller shall not enter into any leases, licenses, contracts, agreements, arrangements, understandings or other commitments relating to the Business or the Assets, except in the normal course generally consistent with past practice. The Seller shall not terminate or modify any existing contract with customers or telecommunications suppliers, except with notification to Buyer and in the normal course generally consistent with past practice.

(f) Suppliers. The Seller shall use commercially reasonable efforts to maintain the business relations of the Seller with its suppliers, customers and others with whom it has business relations relating to the Business generally consistent with past practice.

**5.2 No Negotiations/Solicitations.** The Seller will not directly or indirectly (through a representative or otherwise) solicit or furnish any information to any prospective buyer, or commence or conduct presently ongoing negotiations with any other party, or enter into any agreement with any other party concerning the sale of the Business or the Assets, or any material part thereof (an "Acquisition Proposal"); and the Seller shall promptly notify the Buyer of the receipt of any Acquisition Proposal and the terms thereof, provided that the Seller shall be under no obligation to disclose to the Buyer the identity of the author of any unsolicited Acquisition Proposal. The Seller shall not dispose of any interest in a material portion of the Business or the Assets except pursuant to this Agreement, as the same may be amended and in affect from time to time.

**5.3 Closing Accounts Receivable; Previously Unbilled Call Detail Records.** As soon as possible after the Closing, Buyer shall provide Seller with the FBC and local accounts receivable report as of the Closing, which shall be true and accurate in all material respects. After the Closing January 31, 2005, the Buyer shall use all commercially reasonable efforts to collect any revenues associated with the Seller's outstanding accounts receivable in existence on the Closing Date January 31, 2005 as set forth in paragraph 2.1. Buyer shall establish new merchant accounts and a new lockbox within 5 days after the Closing Date. All customer billings subsequent to the Closing Date shall be directed to the new lockbox.

**5.4 Non-Disclosure Agreement.** In addition to any other confidentiality covenants and obligations imposed under this Agreement, the parties agree to comply with the Non-Disclosure Agreement between the Buyer and the Seller.

**5.5 Disclosures and Announcements.** No press releases or filings shall be made by any party without the prior written approval of the Buyer and the Seller, which approval shall not be unreasonably withheld. All notices to third-parties, including but not limited to, regulatory authorities, customers, vendors and landlords, concerning this Agreement or the transactions contemplated hereby shall be jointly planned and coordinated by the Buyer and the Seller. Except as required by applicable law, Seller and the Buyer shall not give notice to third parties or

otherwise make any disclosure, public statement or releases concerning this Agreement or the transactions contemplated hereby except with the express written consent of the Buyer and the Seller, which consent shall not be unreasonably withheld.

**5.6 Consents; Regulatory Approvals.** The parties hereto shall cooperate with each other and use all reasonable efforts promptly to prepare and file all necessary documentation, to effect all applications, notices, petitions and filings, and to obtain as promptly as practicable all permits, consents, approvals and authorizations of all third parties and Governmental Entities including without limitation, all Regulatory Approvals and such State approvals and authorizations not currently held by the Buyer on the date hereof, which are necessary or reasonably advisable to consummate the transactions contemplated by this Agreement (including without limitation all regulatory filings and approvals necessary to transfer ownership of the customer accounts and the Letters of Agency from the Seller in each state where the Seller currently has end users and at the Federal Communications Commission (the "FCC"), which the parties hereby agree shall be prepared and prosecuted, on their joint behalf). The Buyer and the Seller shall have the right to review in advance, and to the extent practicable each will consult with the other on, in each case subject to applicable laws relating to the exchange of information, all the information relating to the Seller or Buyer, as the case may be, which appear in any filing made with or written materials submitted to, any third party or any Governmental Entity in connection with the transactions contemplated by this Agreement. In exercising the foregoing right, each of the parties hereto shall act reasonably and as promptly as practicable. The parties hereto agree that they will consult with the others with respect to the obtaining of all permits, consents, approvals and authorizations of all third parties and Governmental Entities necessary or advisable to consummate the transactions contemplated by this Agreement and each party will keep the other apprised of the status of matters relating to completion of the transactions contemplated herein. The Buyer and the Seller shall promptly furnish each other with copies of written communications received by Buyer or the Seller, as the case may be, from, or delivered by any of the foregoing to, any Governmental Entity in respect of the transactions contemplated hereby. Buyer shall make a good faith effort and take all reasonable steps to obtain the necessary regulatory approvals.

**5.7 Schedules.** The Seller shall promptly notify the Buyer in writing with respect to any matter arising or discovered after the date of execution of this Agreement, which matter, if existing or known at the date hereof, would have been required to be set forth or described in the Schedules to this Agreement. The Buyer shall notify Seller in writing promptly upon becoming aware of any inaccuracy in any of the Schedules. In either such event, Seller shall update the relevant schedule with no liability therefore.

## **ARTICLE VI**

### **CONDITIONS PRECEDENT**

**6.1 Conditions to Obligations of Buyer.** The obligation of Buyer to consummate the transactions contemplated herein is subject to the satisfaction or waiver by Buyer, at or prior to Closing Date, of the following conditions:

(a) **Representations and Warranties.** The representations and warranties of the Seller set forth in this Agreement shall be true and correct in all material respects as of the date of this Agreement and (except to the extent such representations and warranties speak as of an earlier date) as of the Closing Date as though made on and as of the Closing Date.

(b) **Compliance With Agreement.** The Seller shall have performed and complied in all material respects with each obligation and covenant required to be performed or complied with by it pursuant to the terms of this Agreement.

(c) **No Prohibition.** Neither the consummation nor the performance of any of the transactions contemplated by this Agreement will directly or indirectly (with or without notice or lapse of time), materially contravene, or conflict with, or result in a material violation of, or cause the Buyer to suffer any material adverse consequence under (i) any applicable laws, or (ii) any law that has been published, introduced, or otherwise proposed by or before any Governmental Entity.

(d) **Absence of Liens.** The Buyer (at its own expense) shall have received a UCC search report dated within 30 days of the Closing indicating that there are no filings under Article 9 of the UCC on file which indicate any lien on the Assets, except for Permitted Encumbrances.

(e) **Condition of Assets.** The Assets shall not have been affected in any way as a result of any fire, accident, storm or other casualty or labor or civil disturbance or act of God or the public enemy constituting a material adverse effect. In any such event the parties shall negotiate an adjustment to the Purchase Price.

(f) **Carrier Agreements.** All carrier agreements which were in place on July 31, 2004, shall be assigned to Buyer as soon as reasonably possible and approved by the Carriers or other arrangements reasonably satisfactory to Buyer are in place so as to allow Buyer to continue to provide the telecommunications services to the customers being acquired and any anticipated new customers.

(g) **Closing Deliveries.** The Seller shall have delivered, or caused the delivery to Buyer of, the License Agreement, the Interim Management Agreement whereby employees of the Buyer manage the Business on Seller's behalf until the Closing substantially in the form of Exhibit E (the "Management Agreement") and each of the other documents required to be delivered by the Seller on the Closing Date under Section 7.2.

(h) **Tax Clearances.** Seller agrees it is responsible for the payment of all taxes and regulatory fees, including, but not limited to, federal, state and local excise and sales taxes and federal and state regulatory and universal service fees, incurred up to the date of Closing.

**6.2 Conditions to Obligations of the Seller.** The obligations of the Seller to consummate the transactions contemplated herein is subject to the satisfaction, or waiver by the Seller, at or prior to the Closing of the following conditions:

(a) Representations and Warranties. The representations and warranties of Buyer set forth in this Agreement shall be true and correct in all material respects on the date of this Agreement and (except to the extent such representations and warranties speak as of an earlier date) as of the Closing Date, as though made on and as of the Closing Date.

(b) Compliance With Agreement. The Buyer shall have performed and complied in all material respects with each obligation and covenant required to be performed or complied with by the Buyer at or prior to the Closing Date pursuant to the terms of this Agreement, including delivery of the Closing Documents, which shall be in form and substance satisfactory to counsel for the Seller.

(c) No Prohibition. Neither the consummation nor the performance of any of the transactions contemplated by this Agreement will directly or indirectly (with or without notice or lapse of time), materially contravene, or conflict with, or result in a material violation of, or cause the Seller to suffer any material adverse consequence under (i) any applicable laws, or (ii) any law that has been published, introduced, or otherwise proposed by or before any Governmental Entity.

(d) Closing Deliveries. Buyer shall have delivered, or caused the delivery to the Seller of, the Note, the License Agreement, the Management Agreement and each of the other documents required to be delivered by Buyer on the Closing Date under Section 7.3.

## **ARTICLE VII**

### **CLOSING**

#### **7.1 Closing.**

(a) Closing Date. The Closing shall be held at 9:00 a.m. on January 31, 2005, at 1501 E. Woodfield Road, Ste 300 W, Schaumburg, IL 60173, or at such other time and place otherwise designated by the parties.

**7.2 Documents to be Delivered by the Seller at the Closing.** At the Closing, the Seller shall deliver to the Buyer the following documents:

(a) Transfer Instruments. Such bills of sale, assignments, licenses and other good and sufficient instruments of transfer, conveyance and assignment in form and substance reasonably acceptable to the Buyer and effective to vest in the Buyer all of the Seller's right, title and interest in and to the Assets for which the regulatory approvals have been obtained in accordance with the terms of this Agreement. If requested by Buyer, at the Closing, as to all Assets in States for which regulatory approvals are pending, the Seller shall deliver to the Buyers attorney the transfer instruments and other documents relating to such Assets to be held in escrow until the regulatory approval relating to such Asset is received. The documents will be dated as of the date of receipt of such regulatory approval. The date of such regulatory approval shall be deemed the Closing Date with respect to such Assets.

(b) Compliance Certificate. A certificate signed by the Seller to the effect that to the knowledge of the Seller the representations and warranties of the Seller set forth in Article III of this Agreement are true and correct in all material respects on and as of the Closing Date, with the same effect as though made or given on and as of the Closing Date (except for changes contemplated or permitted by the terms of this Agreement, consented to in writing by the Buyer, or made as of a particular date, in which case such representations and warranties shall have been true and correct in all material respects as of such date), and that the Seller has performed and complied in all material respects with each obligation and covenant required to be performed or complied with by the Seller on or prior to the Closing Date.

(c) Good Standing Certificate. A good standing certificate of the Seller from the Secretary of State of Illinois, obtained at the expense of the Seller, dated within thirty (30) days of the Closing.

(d) Resolution. A certified copy of the resolutions of the board of directors of the Seller authorizing and approving this Agreement and the consummation of the transactions contemplated by this Agreement; and (ii) identify by name and title and bear the signature of its officer authorized to execute any closing document to be executed and delivered on behalf of the Seller pursuant to the terms of this Agreement.

(e) Release of Encumbrances. UCC-3 termination statements or other evidence of the release of all Liens on the Assets other than Permitted Encumbrances.

(f) Other Documents. The License and Royalty Agreement, Interim Management Agreement, Security Agreement, Promissory Note, Consulting Agreement, Covenant Not to Compete and all other documents, instruments or writings required to be delivered to the Buyer pursuant to the terms of this Agreement, including documents evidencing the Regulatory Approvals received by the Closing Date.

**7.3 Documents to be Delivered by the Buyer.** At the Closing, the Buyer shall deliver to the Seller the following documents:

(a) Resolution. A certified copy of the resolutions of the Buyer authorizing and approving this Agreement and the consummation of the transactions contemplated by this Agreement; and identifying by name and title and bearing the signature of the person authorized to execute any Closing document to be executed and delivered on behalf of the Buyer pursuant to the terms of this Agreement.

(b) Payment; Note. The Buyer shall have paid the sum of \$360,000.00 by wire transfer in same day funds and shall have executed the Secured Promissory Note.

(c) Compliance Certificate. Certificates signed by the Buyer to the effect that the representations and warranties of the Buyer set forth in Article IV of this Agreement are true and correct in all material respects on and as of the Closing Date with the same effect as though

made or given on and as of the Closing Date (except for changes contemplated or permitted by the terms of this Agreement, consented to in writing by the Seller, or made as of a particular date, in which case such representations and warranties shall have been true and correct in all material respects as of such date), and that the Buyer has performed and complied in all material respects with each obligation and covenant required to be performed or complied with by the Buyer on or prior to the Closing Date.

(d) Other Documents. The Note, Management Agreement, License and Royalty Agreement, Interim Management Agreement, Security Agreement, Promissory Note, Consulting Agreement, Covenant Not to Compete and all other documents, instruments or writings required to be delivered to the Seller at or prior to the Closing pursuant to the terms of this Agreement including documents evidencing the Regulatory Approvals received by the Closing Date.

**7.4 Assignment of Contracts, Rights and Obligations.** This Agreement reflects the Seller's intent to assign all of the Assets to the Buyer on or prior to the Closing Date subject to Section 7.6. However, at the Buyer's sole option, if an assignment thereof, without the consent of a third party thereto or the expiration of a notice period to a third party thereto, would constitute a breach or default thereof, cause or permit the acceleration or termination thereof or in any way materially and adversely affect the rights of the Buyer or the Seller thereunder or the right of the Buyer to conduct all or any part of the Business in the manner and on the terms presently enjoyed by the Seller, the parties shall arrange an equitable assignment by the Seller to the Buyer of all of the Seller's right, title and interest in and to, and obligations under, such Assets. If a third party consent is not obtained or notice period expired with respect to any such Assets as of the date hereof (i) the Seller shall cooperate with the Buyer in any reasonable arrangement designed to provide the Buyer the benefits under any such Assets, including, without limitation, compliance by the Seller on the Buyer's behalf with any such Assets and enforcement for the benefit of the Buyer of any and all rights of the Seller against a third party thereto arising out of the breach or cancellation by such third party or otherwise, and (ii) the Buyer shall indemnify and hold the Seller harmless in respect of any and all obligations owed by the Seller relating to such Assets and arising after the Closing Date. The Seller and the Buyer covenant to proceed promptly to complete and satisfy any such third party actions as soon as possible after the date hereof. Upon a third party consent being obtained or sufficient notice having expired with respect to any such Assets, the Seller shall assign to the Buyer and the Buyer shall assume from the Seller, in each case effective as of the date hereof, by supplemental instrument of conveyance if requested by the Seller or the Buyer, all of the Seller's right, title and interest in and to, and obligations under, such Assets, without further payment of consideration, and the arrangements entered into between the Seller and the Buyer pursuant to the foregoing sentence with respect to such Assets shall terminate as to such Asset.

**7.5 Recording of Documents.** The Buyer shall be responsible for the filing or recording of such assignments, instruments or documents delivered by the Seller hereunder as may be necessary to perfect the Buyer's right, title or interest in or to any of the Assets.

**7.6 Passage of Title at Closing.** Upon delivery of the transfer instruments at Closing or thereafter in accordance with the terms hereof, title to the Assets covered thereby shall pass to the Buyer. The Seller will put the Buyer in possession of all of the Assets for which Regulatory Approvals are received at the Closing and, as to the Assets and Business for which Regulatory Approvals are pending, the Seller shall put the Buyer in possession of all such Assets as of the date of receipt of Regulatory Approval relating to the transfer of such Asset. From and after the Closing or, if applicable, upon receipt of the Regulatory Approval pending as of the Closing Date relating to the Assets and the Business, the ownership and operation of the Assets conveyed to the Buyer pursuant to this Agreement shall be for the account and risk of the Buyer. To the extent that Assets aren't capable of being transferred at the Closing, the Seller shall continue to own such Assets and the Buyer shall manage such Assets for Seller pursuant to the Management Agreement.

## **ARTICLE VIII**

### **TERMINATION AND AMENDMENT**

**8.1 Termination.** This Agreement may be terminated at any time prior to the Closing Date:

(a) by consent of the Buyer and the Seller in a written instrument, if the appropriate officer of each so determines;

(b) by the Buyer or the Seller (provided that the terminating party is not then in material breach of any representation, warranty, covenant or other agreement contained herein) if there shall have been a material breach of any of the representations or warranties set forth in this Agreement on the part of the other party, (i) which breach (if susceptible to cure) is not cured within twenty (20) business days following written notice to the party committing such breach, or (ii) which breach, by its nature, cannot be cured;

(c) by the Buyer or the Seller if the Closing shall not have occurred by January 31, 2005.

## **ARTICLE IX**

### **INDEMNIFICATION**

**9.1 Indemnification by the Seller.** The Seller covenants and agrees that it will indemnify and hold the Buyer and its Affiliates, members, officers, employees and agents (collectively, the "Buyer's Indemnified Persons") at all times harmless from and against any loss, cost and expense ("Loss") (including reasonable attorneys' fees but excluding punitive, consequential and special damages) imposed on or incurred by the Buyer's Indemnified Persons caused by or arising out of or in connection with:

(a) any material misrepresentation, breach of warranty, or breach or nonfulfillment of any covenant or agreement to be performed on the part of the Seller or the Stockholder on or prior to the Closing Date as provided in this Agreement or any certificate or

other document delivered or to be delivered pursuant hereto, provided that Seller shall not be responsible for any breach of a representation or warranty based on information received or contained in, or omitted from, any schedule reviewed or prepared by any of the principals of Buyer, or

(b) the Excluded Liabilities.

**9.2 Indemnification by the Buyer.** The Buyer covenants and agrees that it will indemnify and hold the Seller and its successors and assigns and its respective Affiliates, officers, directors, employees, stockholders and agents (collectively, the "Seller's Indemnified Persons") at all times harmless from and against any Loss (including reasonable attorneys' fees and other costs of defense but excluding punitive, consequential and special damages) imposed on or incurred by the Seller's Indemnified Persons caused by or arising out of or in connection with:

(a) any material misrepresentation, breach of warranty, or breach or nonfulfillment of any covenant or agreement to be performed on the part of the Buyer prior to the Closing Date as provided in this Agreement or any certificate or other document delivered or to be delivered pursuant hereto,

(b) all debts, claims, liabilities and obligations of the Seller arising from the Assumed Liabilities, or

(c) the operation of the Business after the Closing Date.

**9.3 Undisputed Claims.** A party (the "Indemnified Party") may assert a Claim that it is entitled to, or may become entitled to, indemnification under this Agreement by giving written notice of its Claim to the party or parties that are, or may become, required to indemnify the Indemnified Party (the "Indemnified Party"), providing reasonable details of the facts giving rise to the Claim and a statement of the Indemnified Party's Loss in connection with the Claim, to the extent such Loss is then known to the Indemnified Party and, otherwise, an estimate of the amount of the Loss that it reasonably anticipates that it will incur or suffer.

**9.4 Third-Party Suits.** In the case of any Third-Party Suit, the Indemnifying Party shall control the defense of the Third-Party Suit, and shall be fully responsible for the costs of counsel related thereto the Indemnifying Party shall consult with the Indemnified Party with respect to the Third-Party Suit upon the Indemnified Party's reasonable request for consultation, and the Indemnified Party may, at its expense, participate in (but not control) the defense and employ counsel separate from the counsel employed by the Indemnifying Party. All parties shall cooperate in the defense of the Third-Party Suit.

**9.5 Settlement or Compromise.** If the Indemnified Party is conducting the defense of a Third-Party Suit, the Indemnified Party shall give the Indemnifying Party at least fifteen (15) days prior written notice of any proposed settlement or compromise, during which time the Indemnifying Party may assume the defense of the Third-Party Suit and, if it does so (or if the



Indemnifying Party has already assumed control of such Third-Party Suit), the proposed settlement or compromise may not be made without the Indemnified Party's consent, which shall not be unreasonably withheld. If consent is withheld, the Indemnified Party shall pay or reimburse the Indemnifying Party for the amount of any award or settlement over the rejected settlement or compromise. If the Indemnifying Party does not so assume the defense of the Third-Party Suit, the Indemnified Party may enter into the proposed settlement. Any settlement or compromise of any Third-Party Suit by either the Indemnifying Party or the Indemnified Party entered into in compliance with this Section 9.5 shall also be binding on the other party in the same manner as if a final judgment or decree had been entered by a court of competent jurisdiction in the amount of the settlement or compromise.

**9.6 Failure to Act by Indemnified Party.** Any failure by the Indemnified Party to defend a Third-Party Suit shall not relieve the Indemnifying Party of its indemnification obligations if the Indemnified Party gives the Indemnifying Party at least thirty (30) days prior written notice of the Indemnified Party's intention not to defend and affords the Indemnifying Party the opportunity to assume the defense.

**9.7 Survival of Representations and Warranties; Time to Assert Claim.** All representations and warranties in this Agreement and any other certificate or document delivered pursuant to this Agreement will survive until January 31, 2006. The covenants and obligations shall survive until all amounts have been paid under the Secured Promissory Note.

## **ARTICLE X**

### **MISCELLANEOUS AND GENERAL**

**10.1 Employee Matters.** Buyer may, at its sole option, interview and offer employment to employees of the Seller. Notwithstanding the foregoing, Buyer shall have no liability or obligation with respect to any employee of the Seller, including without limitation any severance, contractual or other liabilities arising out of any employee's employment with the Seller.

#### **10.2 Sales, Use and Excise Taxes.**

The Buyer and the Seller acknowledge and agree that they intend the transactions contemplated hereby to be treated to the broadest extent possible as either (i) an exempt casual or isolated sale (or similar exempt transaction), or, (ii) an exempt sale for resale, pursuant to applicable sales and use tax, excise tax, gross receipts tax or similar Tax provisions. Notwithstanding the foregoing, however, the Seller shall pay all sales, use, excise, gross receipts and transfer taxes (exclusive of any income taxes, including, without limitation, capital gains taxes, of the Seller and any Stockholder), if any, arising by reason of the sale and the transfer of the Assets pursuant to this Agreement. The Buyer shall not be responsible for any business, occupation, withholding or similar Tax, or for any Taxes of any kind related to any period before the Closing Date.

**10.3 Access to Books and Records.** Each of the Buyer and the Seller shall preserve until January 31, 2008, all records possessed or to be possessed by such party relating to any of the Assets or the business prior to the Closing Date. After the Closing Date, where there is a legitimate purpose, such party shall provide the other parties with access, upon prior reasonable written request specifying the need therefor, during regular business hours, to (i) the officers and employees of such party and (ii) the books of account and records of such party, but, in each case, only to the extent relating to the Assets or the business prior to the Closing Date, and the other parties and their representatives shall have the right to make copies of such books and records; provided, however, that the foregoing right of access shall not be exercisable in such a manner as to interfere unreasonably with the normal operations and business of such party; and further, provided, that, as to so much of such information as constitutes trade secrets or confidential business information of such party, the requesting party and its officers, directors and representatives will use due care to not disclose such information. Such records may nevertheless be destroyed by a party if such party sends to the other parties written notice of its intent to destroy records specifying with particularity the contents of the records to be destroyed. Such records may then be destroyed after the 30th day after such notice is given unless another party objects to the destruction in which case the party seeking to destroy the records shall deliver such records to the objecting party.

**10.4 No Third-Party Rights.** Nothing expressed or referred to in this Agreement is intended or shall be construed to give any Person other than the parties to this Agreement any legal or equitable right, remedy or claim under or with respect to this Agreement, or any provision hereof, being the intention of the parties hereto that this Agreement and all of its provisions and conditions are for the sole and exclusive benefit of the parties to this Agreement and their respective successors and assigns, and for the benefit of no other Person.

**10.5 Schedules.** The Schedules referenced in this Agreement constitute an integral part hereof. Information disclosed on any Schedule shall be deemed to have been disclosed with respect to all other articles and sections of this Agreement which are reasonably related to the information in such Schedule.

**10.6 Further Assurances.** The Seller and the Buyer hereby agree to execute and deliver such other documents and instruments, and take such other actions, as may be reasonably necessary or desirable in order to consummate and implement the transactions contemplated by this Agreement.

**10.7 Parties-in-Interest; Assignment.** This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and assigns. Neither party may assign its rights and obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld.

**10.8 Mutual Drafting.** This Agreement is the joint product of the parties hereto and each provision hereof has been subject to the mutual consultation, negotiation and agreement of, and shall not be construed for or against, any party hereto.

Washington, D.C. 20024  
Fax: 202-406-3604

with a copy to:

Julie Anna Potts  
General Counsel  
600 Maryland Avenue SW Suite 800  
Washington, D.C. 20024  
Fax: 202-406-3604

or to such other persons or addresses as may be designated in writing by the party to receive such notice.

**10.14 Entire Agreement.** This Agreement (including the Schedules thereto), the License and License Agreement, the Secured Promissory Note, Security Agreement, the Interim Management Agreement, the Consulting Agreement, Covenant Not to Compete and the closing documents constitute the entire agreement between the parties hereto with respect to the transactions contemplated hereby, and there have been and are no agreements, representations or warranties between the parties other than those set forth or provided for herein or therein.

**10.15 Severability.** Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is deemed to be so broad as to be unenforceable, the provision shall be interpreted to be only so broadly as is enforceable.

**10.16 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**10.17 Captions.** The article, section and paragraph captions herein are for convenience of reference only, do not constitute a part of this Agreement, and shall not be deemed to limit or otherwise affect any of the provisions hereof.

IN WITNESS WHEREOF, the Buyer and the Seller have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date first above written.

AMERICAN FARM BUREAU, INC.

By *C. David Mayfield*  
Its CORPORATE SECRETARY

"Seller"

IBFA ACQUISITION COMPANY, LLC

By *Cacimir A. McJunkin III*  
Its President

"Buyer"

American Farm Bureau, Inc. – IBFA Acquisition Company, LLC

Asset Purchase Agreement Schedule 1.1(d)

LICENSES

<b>Jurisdiction</b>	<b>Consents and Approvals</b>
Alabama	Certificate of Public Convenience and Necessity to Provide Telephone Toll Resale Service
Arkansas	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
California	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Telecommunications Services in California
Colorado	Registered Toll Reseller
Connecticut	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
Florida	Certificate to Provide Interexchange Telecommunications Service
Georgia	Certificate to Resell Interexchange Service and Provide Local Service
Illinois	Certificate of Interexchange and Local Service Authority
Indiana	Certificate of Territorial Authority
Iowa	Registered Telecommunications Service Provider
Kansas	Certificate of Public Convenience and Necessity
Kentucky	Registered to Provide Intrastate Local and Long Distance Service
Louisiana	Certificate of Authority to Operate as a Telecommunications Service Provider
Maine	Certificate of Public Convenience and Necessity
Maryland	Certificate of Public Convenience and Necessity
Massachusetts	Approved Tariff/Statement of Business Operations
Michigan	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
Minnesota	Certificate of Public Convenience and Necessity
Mississippi	Certificate of Public Convenience and Necessity
Missouri	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
Montana	Certificate of Public Convenience and Necessity
Nebraska	Certificate of Public Convenience and Necessity
Nevada	Certificate of Public Convenience and Necessity
New Jersey	Registered Reseller of Telecommunications
New Mexico	Certificate of Public Convenience and Necessity
New York	Certificate of Public Convenience and Necessity to Provide All Forms of Telecommunications Services
North Carolina	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
North Dakota	Certificate of Public Convenience and Necessity
Oklahoma	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
Oregon	Certificate of Public Convenience and Necessity
Pennsylvania	Certificate of Public Convenience and Necessity
Tennessee	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
Texas	Certificate of Public Convenience and Necessity to Provide Local and Long Distance Service
Vermont	Certificate of Public Good
Virginia	Registered Reseller of Telecommunications Services
Washington	Registered Reseller of Telecommunications Services
West Virginia	Certificate of Public Convenience and Necessity
Wisconsin	Certificate of Authority Alternative Telecommunications Utility
FCC	Section 214 International Operating Authority (ITC-96-587) Blanket Domestic Authority

## **EXHIBIT B**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**IN THE MATTER OF THE APPLICATION  
OF IBFA ACQUISITION COMPANY, LLC  
D/B/A FARM BUREAU CONNECTION  
FOR A CERTIFICATE TO PROVIDE  
COMPETING LOCAL TELECOMMUNICATIONS  
AND INTEREXCHANGE SERVICES**

**APPLICATION FOR CERTIFICATE TO PROVIDE  
COMPETING LOCAL TELECOMMUNICATIONS AND INTEREXCHANGE SERVICES**

Pursuant to applicable Tennessee Statutes and the Rules and Regulations of the Tennessee Regulatory Authority and Section 253 of the Federal Telecommunications Act of 1996 ("Act"), IBFA ACQUISITION COMPANY, LLC d/b/a FARM BUREAU CONNECTION, ("IBFA") respectfully requests that the Tennessee Regulatory Authority ("TRA") grant to IBFA authority to provide competing local telecommunications interexchange services, including: facilities-based and resold local exchange, exchange access, and interexchange telecommunications services, within the State of Tennessee IBFA is willing and able to comply with all applicable rules and regulations in Tennessee pertaining to the provision of competing local telecommunications services TCA 65-4-201

In support of its Application, IBFA submits the following:

**1. The full name and address of the Applicant is:**

IBFA ACQUISITION COMPANY, LLC d/b/a FARM BUREAU CONNECTION  
1850 Howard Street, Unit C  
Elk Grove Village, IL 60007  
Telephone: (847) 685-8600  
Facsimile (847) 685-8680

**A Questions regarding this application should be directed to**

Patrick D. Crocker  
Early, Lennon, Crocker & Bartosiewicz, P L C  
900 Comerica Building  
Kalamazoo, MI 49007  
Telephone: (269) 381-8844  
Facsimile: (269) 381-8822  
Email pcrocker@earlylennon.com

B Contact name and address at the Company is.

Casey Wojciechowski  
1850 Howard Street, Unit C  
Elk Grove Village, IL 60007  
Park Ridge, IL 60068  
Telephone: (847) 685-8600  
Facsimile: (847) 685-8680

2. **Organizational Chart of Corporate Structure: Include any pertinent acquisition or merger information.**

See Exhibit A

3. **Corporate information:**

IBFA ACQUISITION COMPANY, LLC d/b/a FARM BUREAU CONNECTION is a limited liability company organized in the State of Michigan. A copy of IBFA's Articles of Organization is provided in Exhibit B.

A copy of IBFA's Authority to transact business in the State of Tennessee is provided in Exhibit C.

The names and addresses of the principal corporate officers are provided in Exhibit D

There are no officers in Tennessee

The biographies of the members and any other key technical staff are in Exhibit E

4. **IBFA possesses the managerial, technical, and financial ability to provide local telecommunications service in the State of Tennessee as demonstrated below:**

A Financial Qualifications:

In support of its financial qualifications, IBFA submits financial statements for the two months ending February 28, 2005 in Exhibit F. Also included are 3-year projections including income statements, balance sheets, and statements of cash flow.

Exhibit G is a capital expenditures budget indicating type of equipment to be purchased, cost, and sources for funding of projected capital expenditures

IBFA's financials nor their projected financials reflect any revenues or expenses associated with reciprocal compensation.

Irrevocable letter of credit is provided as Exhibit H

B. Managerial Ability:

As shown in Exhibit E to this Application, IBFA has the managerial expertise to successfully operate a telecommunications enterprise in Tennessee. As described in the attached biographical information, IBFA's management team has extensive management and business experience in telecommunications



C. Technical Qualifications:

IBFA services will satisfy the minimum standards established by the TRA. The Company will file and maintain tariffs in the manner prescribed by the TRA and will meet minimum basic local standards, including quality of service and billing standards required of all LEC'S regulated by the TRA. Applicant will not require customers to purchase CPE, which cannot be used with the Incumbent Local Exchange Carrier's systems. As noted in the biographies Exhibit E of the principal officers, the officers have several years of telecommunications expertise. Thus, IBFA is certainly technically qualified to provide local exchange service in Tennessee.

5. **Proposed Service Area:**

IBFA is filing nationwide for authority to provide interexchange telecommunications services and is currently authorized in Colorado, District of Columbia, Idaho, Indiana, Iowa, Michigan, Montana, New Jersey, North Dakota, Texas, Utah, Virginia, and Wisconsin.

IBFA is currently not authorized to provide local exchange services in any jurisdiction, but has filed applications in Arkansas, California, Florida, Illinois, Kentucky, Michigan, New York, and Texas and intends to file applications contemporaneously with this filing in the states of Connecticut, Georgia, Missouri, and North Carolina

The applicant proposes to offer its services throughout the State of Tennessee. IBFA intends to provide service in the areas currently being served by Bell South and Sprint/United, which are designated open to competition. IBFA intends to offer this broad range of telecommunications services through the use of its own facilities, resold facilities, and through a combination of these provisioning methods using the unbundled network element platform (UNE-P). IBFA anticipates collocating DSLAMS and other related electronic equipment in the central offices of the ILECs.

Applicant will also resell interexchange long distance services to business and residential customers throughout the entire state of Tennessee.

6. **Types of Local Exchange Service to be provided:**

IBFA expects to offer a broad variety of local exchange services, primarily to residential customers in Tennessee. IBFA's initial line of local services will be comparable to that currently offered by the incumbent LECS. Initially IBFA plans to offer basic access line service, Optional Calling Features, Directory Assistance, Directory Services, and Operator Services, as well as all services required under Chapter 1220-4-8-.04 (3) (6) and (2)

7. **Repair and Maintenance:**

IBFA understands the importance of effective customer service for local service customers. IBFA has made arrangements for its customers to call the company at its toll-free customer service number (800) 362-3276. In addition, customers may contact the company in writing at the headquarters address. The toll free customer service number will be printed on the customer's monthly billing statements. The Tennessee contact person knowledgeable about provider's operations is Casey Wojciechowski, reference (1 B ) above.

Grant of the Application will further the goals of the Tennessee Legislature and further the public interest by expanding the availability of competitive telecommunications services in the State of Tennessee. In addition, intrastate offering of these services is in the public interest because the services will provide Tennessee customers increased efficiencies and cost savings. Authorizing IBFA to provide local exchange telecommunications services will enhance materially the telecommunications infrastructure in the State of Tennessee and will facilitate economic development.


In particular, the public will benefit both directly, through the use of the competitive services to be offered by IBFA and indirectly, because IBFA's presence in Tennessee will increase the incentives for other telecommunications providers to operate more efficiently, offer more innovative services, reduce their prices, and improve their quality of service. Grant of this Application will further enhance the service options available to Tennessee citizens for the reasons set forth above.

8. **Small and Minority-Owned Telecommunications Business Participation Plan: (65-5-212):** is provided in Exhibit I
9. **Toll Dialing Parity Plan:** is provided as Exhibit J
10. Applicant has served notice of this application to the eighteen (18) incumbent local exchange telephone companies in Tennessee with a statement regarding the company's intention of operating geographically. See Exhibit K for the list.
11. **Numbering Issues:** Statement provided in Exhibit L
12. **Tennessee Specific Operational Issues:** Statements provided in Exhibit M
13. **Miscellaneous:**
  - A Sworn Pre-filed testimony. Exhibit N
  - B Applicant does not require customer deposits
  - C. As of now IBFA has not been subject to complaints in any of the states in which we are doing business
  - D. Applicant will file a local exchange tariff for Commission approval prior to commencing operations in Tennessee.
  - E Number of employees. Applicant has ten employees during this start-up phase.
  - F. Employer Identification Number (E I N ) 14-1921050
  - G. The descriptions, regulations, and rates applicable to the furnishing of resold interexchange services in Tennessee are attached hereto as Exhibit O

## CONCLUSION

IBFA respectfully requests that the TRA enter an order granting it a certificate of convenience and necessity to operate as a competing telecommunications service provider and authority to provide a full range of local exchange service on a resale basis throughout the State of Tennessee in the service areas of Bell South, GTE and Sprint and any other ILEC that does not enjoy a rural exemption under Section 251(f) of the Telecommunications Act of 1996. For the reasons stated above, IBFA's provision of these services would promote the public interest by providing high-quality service at competitive prices and by creating greater economic incentives for the development and improvement for all competing providers.

Respectfully submitted this 13<sup>th</sup> day of October 2005

  
Patrick D. Crocker

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Facsimile 269-381-8822

## TENNESSEE TELECOMMUNICATIONS TARIFF

This Tariff contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services within the State of Tennessee by IBFA ACQUISITION COMPANY, LLC D/B/A FARM BUREAU CONNECTION ("Company"). This Tariff is on file with the Tennessee Regulatory Authority, and copies may also be inspected, during normal business hours, at the following location.

1850 Howard Street, Unit C, Elk Grove Village, IL 60007

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Issued

Effective

Issued by Casimir Wojcichowski, President  
IBFA ACQUISITION COMPANY, LLC  
D/B/A FARM BUREAU CONNECTION  
1850 Howard Street, Unit C  
Elk Grove Village, IL 60007

CHECK SHEET

The title page and pages 1-39 inclusive of this Tariff are effective as of the date shown. Original and revised sheets, as named below, comprise all changes from the original Tariff in effect on the date indicated.

<u>SHEET</u>	<u>REVISION</u>	<u>SHEET</u>	<u>REVISION</u>
1	Original	21	Original
2	Original	22	Original
3	Original	23	Original
4	Original	24	Original
5	Original	25	Original
6	Original	26	Original
7	Original	27	Original
8	Original	28	Original
9	Original	39	Original
10	Original	30	Original
11	Original	31	Original
12	Original	32	Original
13	Original	33	Original
14	Original	34	Original
15	Original	35	Original
16	Original	36	Original
17	Original	37	Original
18	Original	38	Original
19	Original	39	Original
20	Original		

\* New or Revised Sheets

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CONCURRING, CONNECTING AND OTHER PARTICIPATING CARRIERS

CONCURRING CARRIERS:

No Concurring Carriers

CONNECTING CARRIERS:

No Connecting Carriers

OTHER PARTICIPATING CARRIERS

No Participating Carriers

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### TARIFF FORMAT

Sheet Numbering - Sheet numbers appear in the upper right hand corner of the page. Sheets are numbered sequentially and from time to time new pages may be added to the Tariff. When a new page is added between existing pages, a decimal is added to the preceding page number. For example, a new page added between Sheets 3 and 4 would be numbered 3.1.

Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

2.  
2.1.  
2.1.1  
2.1.1 A  
2.1.1 A.1.  
2.1.1 A.1 (a)  
2.1.1 A.1.(a) I.  
2.1.1 A.1 (a) I (i)  
2.1.1 A.1.(a) I.(i).(1).

Check Sheets - When a Tariff filing is made with the TRA, an updated check sheet accompanies the Tariff filing. The check sheet lists the pages contained in the Tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision, all revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this page if these are the only changes made to it. The Tariff user should refer to the latest check sheet to find out if a particular page is the most current on file with the TRA.

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APPLICABILITY

This Tariff contains the Service offerings, rates, terms and conditions applicable to the furnishing of intrastate interexchange telecommunications services within the State of Tennessee by IBFA ACQUISITION COMPANY, LLC D/B/A FARM BUREAU CONNECTION ("Company")

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EXPLANATION OF SYMBOLS

- (D) - To signify discontinued material
- (I) - To signify a rate or charge increase
- (M) - To signify material relocated without change in text or rate
- (N) - To signify new material
- (R) - To signify a reduction
- (T) - To signify a change in text but no change in rate or regulation

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1. TECHNICAL TERMS AND ABBREVIATIONS

For the purpose of this Tariff, the following definitions will apply:

Access Coordination

Provides for the design, ordering, installation, coordination, pre-service testing, service turn-up and maintenance on a Company or Customer provided Local Access Channel.

Administrative Change

A change in Customer billing address or contact name.

Alternate Access

Alternate Access is a form of Local Access except that the provider of the Service is an entity, other than the Local Exchange Carrier, authorized or permitted to provide such Service. The charges for Alternate Access may be subject to private agreement rather than published or special tariff if permitted by applicable governmental rules.

Application for Service

A standard Company order form that includes all pertinent billing, technical and other descriptive information that will enable the Company to provide a communication Service as required.

ASR

ASR (Access Service Request) means an order placed with a Local Access Provider for Local Access.

Authorized User

A person, firm, corporation or other entity that either is authorized by the Customer to receive or send communications or is placed in a position by the Customer, either through acts or omissions, to send or receive communications.

Bandwidth

The total frequency band, in hertz, allocated for a channel.

Bill Date

The date on which billing information is compiled and sent to the Customer.

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Call

A completed connection between the Calling and Called Stations.

Called Station

The telephone number called.

Calling Station

The telephone number from which a Call originates

Cancellation of Order

A Customer initiated request to discontinue processing a Service order, either in part or in its entirety, prior to its completion. Cancellation charges will be assessed for each Circuit-end or Dedicated Access line canceled from an order prior to its completion by the Company, under the following circumstances: (1) if the LEC has confirmed in writing to the Company that the Circuit-end or Dedicated Access line will be installed; or (2) if the Company has already submitted facilities orders to an interconnecting telephone company.

Channel or Circuit

A dedicated communications path between two or more points having a Bandwidth or Transmission Speed specified in this Tariff and selected by a Customer

Company

IBFA ACQUISITION COMPANY, LLC D/B/A FARM BUREAU CONNECTION

Company Recognized National Holidays

The following are Company Recognized National Holidays determined at the location of the originator of the Call New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day. The evening rate is used unless a lower rate would normally apply. When a Call begins in one rate period and ends in another, the rate in effect in each rate period applies to the portion of the Call occurring within that rate period. In the event that a minute is split between two rate periods, the rate in effect at the start of that minute applies

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Customer

The person, firm, corporation or governmental unit which orders Service and which is responsible for the payment of charges and for compliance with the Company's Tariff regulations. A Customer is considered to be an account for billing purposes. The term Customer also includes an entity that remains presubscribed to the Company Service after its account(s) are removed from the Company's billing system, subsequently continues to use Company's network, and is billed by a local exchange carrier for such use, or otherwise uses Service for which no other Customer is obligated to compensate Company.

Customer Premises/Customer's Premises

Locations designated by a Customer where Service is originated/terminated whether for its own communications needs or for the use of its resale customers.

DCS

DCS means Digital Cross-Connect System.

Dedicated Access/Special Access

Dedicated Local Access between the Customer's Premises or serving wire center and the Company's Point-of-Presence for origination or termination of Calls.

DS-0

DS-0 means Digital Signal Level 0 Service and is a 64 Kbps signal.

DS-1

DS-1 means Digital Signal Level 1 Service and is a 1.544 Mbps signal.

DS-0 with VF Access

DS-0 Service with VF Local Access facilities provides for the transmission of analog voice and/or data within 300 Hz to 3000 Hz frequency range.

DS-0 with DDS Access

DS-0 Service with DDS Access facilities provides for the transmission of digital data at speeds 2.4, 4.8, 9.6 or 56 Kbps.

Due Date

The Due Date is the date on which payment is due.

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Expedite

A Service order initiated at the request of the Customer that is processed in a time period shorter than the Company's standard Service interval.

FCC

Federal Communications TRA

Individual Case Basis (ICB)

Individual Case Basis (ICB) determinations involve situations where complex Customer-specific Company arrangements are required to satisfactorily serve the Customer. The nature of such Service requirements makes it difficult or impossible to establish general tariff provisions for such circumstances. When it becomes possible to determine specific terms and conditions for such offerings, they will be offered pursuant to such terms and conditions.

Installation

The connection of a Circuit, Dedicated Access line, or port for new, changed or an additional Service

Interexchange Service

Interexchange Service means that portion of a communications channel between a Company-designated Point-of-Presence in one exchange and a Point-of-Presence in another exchange

Interruption

Interruption shall mean a condition whereby the Service or a portion thereof is inoperative, beginning at the time of notice by the Customer to Company that such Service is inoperative and ending at the time of restoration

Kbps

Kilobits per second

LATA (Local Access Transport Area)

A geographical area established for the provision and administration of communications Service of a local exchange company.

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Local Access

Local Access means the Service between a Customer Premises and a Company designated Point-of-Presence

Local Access Provider

Local Access Provider means an entity providing Local Access.

Local Exchange Carrier (LEC)

The local telephone utility that provides telephone exchange services.

Mbps

Megabits per second.

Multiplexing

Multiplexing is the sequential combining of lower bit rate Private Line Services onto a higher bit rate Private Line Service for more efficient facility capacity usage or vice versa

N/A

Not available

Nonrecurring Charges

Nonrecurring Charges are one-time charges

Payment Method

The manner that the Customer designates as the means of billing charges for Calls using the Company's Service.

Physical Change

The modification of an existing Circuit, Dedicated Access line or port, at the request of the Customer, requiring some Physical Change or retermination.

Point-of-Presence (POP)

A Company-designated location where a facility is maintained for the purpose of providing access to its Service

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Primary Route

The route that in the absence of Customer-designated routing or temporary re-routing, would be used by the Company in the provision of Service.

Private Line

A dedicated transmission channel furnished to a customer without intermediate switching arrangements for full-time customer use.

Private Line Service

A dedicated full-time transmission Service utilizing dedicated access arrangements

Rate Center

A specified geographical location used for determining mileage measurements

Requested Service Date

The Requested Service Date is the date requested by the Customer for commencement of Service and agreed to by the Company.

Restore

To make Service operative following an interruption by repair, reassignment, re-routing, substitution of component parts, or otherwise, as determined by the carrier(s) involved.

Route Diversity

Two channels that are furnished partially or entirely over two physically separate routes.

Service

Service means any or all Service(s) provided pursuant to this Tariff

Service Commitment Period

The term elected by the Customer and stated on the Service order during which the Company will provide the Services subscribed to by the Customer. The term can be monthly or in the case of Private Line Services for a period of up to 5 years.

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Special Promotional Offerings

Special trial offerings, discounts, or modifications of its regular Service offerings that the Company may, from time to time, offer to its Customers for a particular Service. Such offerings may be limited to certain dates, times, and locations.

Start of Service Date

The Requested Service Date or the date Service first is made available by the Company whichever is later

Tariff

The current Intrastate Services Tariff and effective revisions thereto filed by the Company with the TRA

TRA

Tennessee Regulatory Authority

Transmission Speed

Data transmission speed or rate, in bits per seconds (bps).

Two-Way Conversation

A Two-Way Conversation is a telephone conversation between or among two or more parties

VF

VF is voice frequency or voice-grade Service designed for private-line Service. Normal transmission is in the 300 hertz to 3000-hertz frequency band.

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2. RULES AND REGULATIONS

2 1. Description and Limitations of Services

- 2 1.1. Intrastate Telecommunications Service ("Service") is the furnishing of Company communication Services contained herein between specified locations under the terms of this Tariff.
- 2 1 2. Any member of the general public (including any natural person or legally organized entity such as a corporation, partnership, or governmental body) is entitled to obtain Service under this Tariff, provided that the Company reserves the right to deny Service (A) to any Customer that, in the Company's reasonable opinion, presents an undue risk of nonpayment, (B) in circumstances in which the Company has reason to believe that the use of the Service would violate the provisions of this Tariff or any applicable law or if any applicable law restricts or prohibits provision of the Service, or (C) if insufficient facilities are available to provide the Service (in such cases Company shall make best efforts to accommodate the needs of all potential Customers by means of facility improvements or purchases, of capacity, if such efforts will, in the Company's opinion, provide the Company with a reasonable return on its expenditures), but only for so long as such unavailability exists
- 2.1.3. Company, when acting at the Customer's request and as its authorized agent, will make reasonable efforts to arrange for Service requirements, such as special routing, Diversity, Alternate Access, or circuit conditioning
- 2 1.4 Service is offered in equal access exchanges subject to the availability of facilities and the provisions of this Tariff. Company reserves the right to refuse to provide Service to or from any location where the necessary facilities and/or equipment are not available.
- 2 1 5. Service may be discontinued after five business days written notice to the Customer if
- 2 1 5 A the Customer is using the Service in violation of this Tariff, or
- 2.1 5 B. the Customer is using the Service in violation of the law or TRA regulation
- 2 1.6. Service begins on the date that billing becomes effective and is provided on the basis of a minimum period of at least one month, 24 hours per day For the purposes of computing charges in this Tariff, a month is considered to have 30 days.

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- 2.1.7. Service will be provided until canceled, by the Customer on not less than thirty (30) days' written notice from the date of postmark on the letter giving notice of cancellation.
- 2.1.8. Nothing herein, or in any other provision of this Tariff, or in any marketing materials issued by the Company shall give any person any ownership, interest, or proprietary right in any code or 800 number issued by the Company to its Customers
- 2.1.9. The Company reserves the right to discontinue furnishing Services or billing options, upon written notice, when necessitated by conditions beyond its control. Conditions beyond the Company's control include, but are not limited to, a Customer's having Call volume or a calling pattern that results, or may result, in network blockage or other Service degradation which adversely affects Service to the calling party, the Customer, or other Customers of the Company.
- 2.1.10. Except as otherwise provided in this Tariff or as specified in writing by the party entitled to receive Service, notice may be given orally or in writing to the persons whose names and business addresses appear on the executed Service order and the effective date of any notice shall be the date of delivery of such notice, not the date of mailing. By written notice, Company or Customer may change the party to receive notice and/or the address to which such notice is to be delivered. In the event no Customer or Company address is provided in the executed Service order, notice shall be given to the last known business address of Customer or, as appropriate.

2.2 Other Terms and Conditions

- 2.2.1. The name(s) of the Customer(s) desiring to use the Service must be stipulated in the Application for Service.
- 2.2.2. The Customer agrees to operate the Company provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void the Company liability for interruption of Service and may make Customer responsible for damage to equipment pursuant to Section 2.2.3 below
- 2.2.3. Customer agrees to return to the Company all Company-provided equipment delivered to Customer within five (5) days of termination of the Service in connection with which the equipment was used. Said equipment shall be in the same condition as when delivered to Customer, normal wear and tear only excepted. Customer shall reimburse the Company, upon demand, for any costs incurred by the Company due to Customer's failure to comply with this provision

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- 2.2.4 A Customer shall not use any service-mark or trademark of the Company or refer to the Company in connection with any product, equipment, promotion, or publication of the Customer without prior written approval of the Company
- 2.2.5. In the event suit is brought or any attorney is retained by the Company to enforce the terms of this Tariff, the Company shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.
- 2.2.6 The provision of Service will not create a partnership or joint venture between the Company and the Customer nor result in joint Service offerings to their respective Customers.
- 2.2.7 The rate or volume discount level applicable to a Customer for a particular Service or Services shall be the rate or volume discount level in effect at the beginning of the monthly billing period applicable to the Customer for the particular Service or Services. When a Service is subject to a minimum monthly charge, account charge, port charge or other recurring charge or Nonrecurring Charge for both intrastate and interstate Service, only one such charge shall apply per account and that charge shall be the interstate charge.
- 2.2.8 Service requested by Customer and to be provided pursuant to this Tariff shall be requested on Company Service Order forms in effect from time to time or Customer's forms accepted in writing by an authorized headquarters representative of the Company (collectively referred to as "Service Orders").
- 2.2.9 If an entity other than the company (e.g., another carrier or a supplier) imposes charges on the Company in connection with a Service that entity's charges will be passed through to the Customer also.
- 2.2.10 The Service Commitment Period for any Service shall be established by the Service Order relevant thereto and commence on the Start of Service Date. Upon expiration, each Service Commitment Period for such Service shall automatically be extended subject to written notice of termination by either Company or Customer as of a date not less than thirty (30) days after delivery of said notice to the other. The charges for Interexchange Service during any such extension shall not exceed the then current Company month-to-month charges applicable to such Service

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2 3. Liability

- 2 3.1. Except as provided otherwise in this Tariff, the Company shall not be liable to Customer or any other person, firm or entity for any failure of performance hereunder if such failure is due to any cause or causes beyond the reasonable control of the Company. Such causes shall include, without limitation, acts of God, fire, explosion, vandalism, cable cut, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or of any other government or of any civil or military authority, national emergencies, insurrections, riots, wars, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, or preemption of existing Services to restore service in compliance with Part 64, Subpart D, Appendix A, of the FCC's Rules and Regulations.
- 2 3 2 With respect to the Services contained herein and except as otherwise provided herein, the Company's liability shall not exceed an amount equal to the charge applicable to a one minute Call to the Called Station at the time the affected Call was made. If the initial minute rate is higher than the additional minute rate, the higher rate shall apply For those Services with monthly recurring charges, the Company's liability is limited to an amount equal to the proportionate monthly recurring charges for the period during which Service was affected
- 2 3 3 The Company is not liable for any act or omission of any other company or companies (including any Company affiliate that is a participating or concurring carrier) furnishing a portion of the Service or facilities, equipment, or Services associated with such Service.
- 2.3 4 The Customer is responsible for taking all necessary legal steps for interconnecting the Customer provided terminal equipment with the Company facilities The Customer shall ensure that the signals emitted into the Company's network do not damage Company equipment, injure personnel or degrade Service to other Customers. The Customer is responsible for securing all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the customer shall comply with applicable LEC signal power limitations.
- 2.3.5 The Company may rely on Local Exchange Carriers or other third parties for the performance of other Services such as Local Access. Upon Customer request and execution and delivery of appropriate authorizing documents, the Company may act as agent for Customer in obtaining such other Services. Customer's liability for charges hereunder shall not be reduced by untimely Installation or non-operation of Customer provided facilities and equipment.

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- 2.3.6. The failure to give notice of default, to enforce or insist upon compliance with any of the terms or conditions herein, the waiver of any term or conditions herein, or the granting of an extension of time for performance by the Company or the Customer shall not constitute the permanent waiver of any term or condition herein. Each of the provisions shall remain at all times in full force and effect until modified in writing.
- 2.3.7. The Company shall not be liable to the Customer or any other person, firm or entity in any respect whatsoever as a result of mistakes, accidents, errors, omissions, interruptions, delays, or defects in Service (collectively "Defects") Defects caused by or contributed to, directly or indirectly, by any act or omission of Customer or its customers, affiliates, agents, representatives, invitees, licensees, successors or assigns or which arise from or are caused by the use of facilities or equipment of Customer or related parties shall not result in the imposition of any liability whatsoever upon the Company, and Customer shall pay to the Company any reasonable costs, expenses, damages, fees or penalties incurred by the Company as a result thereof, including penalties incurred by the Company as a result thereof, including costs of Local Access Providers' labor and materials. In addition, all or a portion of the Service may be provided over facilities of third parties, or sold by third parties, and the Company shall not be liable to Customer or any other person, firm or entity in any respect whatsoever arising out of Defects caused by such third parties. THE COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR BUSINESS INTERRUPTION, FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF ANY DEFECTS OR ANY OTHER CAUSE. THE COMPANY'S LIABILITY, IF ANY, WITH REGARD TO THE DELAYED INSTALLATION OF THE COMPANY'S FACILITIES OR COMMENCEMENT OF SERVICE SHALL NOT EXCEED \$1,000. THIS WARRANTY AND THESE REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT OF AN INTERRUPTION IN SERVICE OR ANY DEFECT IN THE SERVICE WHATSOEVER, NEITHER COMPANY NOR ANY AFFILIATED OR UNAFFILIATED THIRD PARTY, THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER.

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- 2 3 8 With respect to the routing of Calls by the Company to public safety answering points or municipal Emergency Service providers, Company liability, if any, will be limited to the lesser of (a) the actual monetary damages incurred and proved by the Customer as the direct result of the Company's action, or failure to act, in routing the Call, or (b) the sum of \$1,000 00.
- 2 3 9. In the event parties other than Customer (e g , Customer's customers) shall have use of the Service directly or indirectly through Customer, then Customer agrees to forever indemnify and hold Company and any affiliated or unaffiliated third-party, third-party provider or operator of facilities employed in provision of the Service harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by said parties arising out of or relating to any Defects.
- 2 3.10 In the event that Company is required to perform a Circuit redesign due to inaccurate information provided by the Customer, or, circumstances in which such costs and expenses are caused by the Customer or reasonably incurred by the Company for the benefit of the Customer, the Customer is responsible for the payment of all such charges

2 4. Cancellation of Service by a Customer

- 2.4 1. If a Customer cancels a Service Order before the Service begins, before completion of the Minimum Period, or before completion of some other period mutually agreed upon by the Customer and the Company, a charge will be levied upon the Customer for the nonrecoverable portions of expenditures or liabilities incurred expressly on behalf of the Customer by the Company and not fully reimbursed by Installation and monthly charges. If, based on a Service order by a Customer, any construction has either begun or been completed, but no Services provided, the nonrecoverable costs of such construction shall be borne by the Customer
- 2 4.2 Upon thirty (30) days' prior written notice, either Customer or Company shall have the right, without cancellation charge or other liability, to cancel the affected portion of the Service, if the Company is prohibited by governmental authority from furnishing said portion, or if any material rate or term contained herein and relevant to the affected Service is substantially changed by order of the highest court of competent jurisdiction to which the matter is appeal, the Federal Communications TRA, or other local, state or federal government authority.

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2 5. Cancellation for Cause by the Company

2 5 1 Upon nonpayment of any sum owing to the Company, or upon a violation of any of the provisions governing the furnishing of Service under this Tariff, the Company may, upon five business days written notification to the Customer, except in extreme cases, without incurring any liability, immediately discontinue the furnishing of such Service. The written notice may be separate and apart from the regular monthly bill for service. Customer shall be deemed to have canceled Service as of the date of such disconnection and shall be liable for any cancellation charges set forth in this Tariff.

2 5.2 Without incurring any liability, the Company may discontinue the furnishing of Service(s) to a Customer upon five business days written notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or Services under the following circumstances, except under extreme cases where the customer may be disconnected immediately and without notice:

2.5 2 A. if the Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, its past or current use of common carrier communications Services or its planned use of Service(s);

2 5.2 B. if the Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of Customer communications Services, or its planned use of the Company Service(s);

2 5.2 C if the Customer states that it will not comply with a request of the Company for reasonable security for the payment for Service(s),

2 5 2 D. if the Customer has been given five business days written notice in a separate mailing by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's communications Services to which the Customer either subscribes or had subscribed or used,

2 5 2 E. in the event of unauthorized use

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2 5.2 F. following the disconnection of service for any of these reasons, the Company or the local exchange utility acting as Company agent, will notify the telephone user/customer that service was disconnected and why. The notice will include all reasons for the disconnection and will include a toll-free number where an end user/customer can obtain additional information. Notice shall be deemed given upon deposit, postage prepaid, in the U.S. Mail to the end user's/customer's last known address and in compliance with the TRA's rules.

2 5.3. The discontinuance of Service(s) by the Company pursuant to this Section does not relieve the Customer of any obligations to pay the Company for charges due and owing for Service(s) furnished up to the time of discontinuance. The remedies set forth herein shall not be exclusive and the Company shall at all times be entitled to all rights available to it under either law or equity.

2 6. Credit Allowance

2 6 1. Credit allowance for the interruption of Service is subject to the general liability provisions set forth in this Tariff. Customers shall receive no credit allowance for the interruption of service that is due to the Company's testing or adjusting, negligence of the Customer, or to the failure of channels or equipment provided by the Customer. The Customer should notify the Company when the Customer is aware of any interruption in Service for which a credit allowance is desired. Before giving such notice, the Customer shall ascertain that the trouble is not being caused by any action or omission within Customer's control, or is not in wiring or equipment, if any, furnished by the Customer in connection with the Company's Services.

2 6 2. No credit is allowed in the event service must be interrupted in order to provide routine service quality or related investigations.

2 6.3. No credit shall be allowed

2 6 3 A. For failure of services or facilities of Customer, or

2 6 3 B. For failure of services or equipment caused by the negligence or willful acts of Customer

2 6 4. Credit for an interruption shall commence after Customer notifies Company of the interruption and ceases when services have been restored.

2 6 5. Credits are applicable only to that portion of Service interrupted.

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- 2 6 6 For purposes of credit computation, every month shall be considered to have 720 hours.
- 2 6 7. No credit shall be allowed for an interruption of a continuous duration of less than two hours.
- 2 6.8 The Customer shall be credited for an interruption of two hours or more at a rate of 1/720th of the monthly recurring charge for the service affected for each hour or major fraction thereof that the interruption continues. Calculations of the credit shall be made in accordance with the following formula.

Credit Formula.

$$\text{Credit} = \frac{A}{720} \times B$$

"A" = outage time in hours

"B" = total monthly charge for affected facility

2 7 Use of Service

- 2 7.1 The Services offered herein may be used for any lawful purpose, including residential, business, governmental, or other use. There are no restrictions on sharing or resale of Services. However, the Customer remains liable for all obligations under this Tariff notwithstanding such sharing or resale and regardless of the Company's knowledge of same. The Company shall have no liability to any person or entity other than the Customer and only as set forth in Section 2.3. The Customer shall not use nor permit others to use the Service in a manner that could interfere with Services provided to others or that could harm the facilities of the Company or others.
- 2 7.2. Service furnished by the Company may be arranged for joint use or authorized use. The joint user or Authorized User shall be permitted to use such Service in the same manner as the Customer, but subject to the following:
- 2 7.2 A One joint user or Authorized User must be designated as the Customer.

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2.7.2.B All charges for the Service will be computed as if the Service were to be billed to one Customer. The joint user or Authorized User that has been designated as the Customer will be billed for all components of the Service and will be responsible for all payments to the Company. In the event that the designated Customer fails to pay the Company, each joint user or Authorized User shall be liable to the Company for all charges incurred as a result of its use of the Company's Service.

2.7.3. In addition to the other provisions in this Tariff, Customers reselling Company Services shall be responsible for all interaction and interface with their own subscribers or customers. The provision of the Service will not create a partnership or joint venture between Company and Customer nor result in a joint communications Service offering to the Customers of either the Company or the Customer.

2.7.4. Service furnished by the Company shall not be used for any unlawful or fraudulent purposes.

2.7.5. The Customer will be billed directly by the LEC for certain Dedicated Access arrangements selected by the Customer for the provisioning of direct access arrangements. In those instances where the Company at the Customer's request may act as agent in the ordering of such arrangements, the Company will bill the Customer Local Access charges.

## 2.8 Payment Arrangements

2.8.1. The Customer is responsible for payment of all charges for Services furnished to the Customer or its joint or Authorized Users. This responsibility is not changed due to any use, misuse, or abuse of the Customer's Service or Customer provided equipment by third parties, the Customer's employees, or the public.

2.8.2. The Company's bills are due upon receipt. Amounts not paid within 30 days from the Bill Date of the invoice will be considered past due. Customers will be assessed a late fee on past due amounts in the amount not to exceed the maximum lawful rate under applicable state law. If a Customer presents an undue risk of nonpayment at any time, the Company may require that Customer to pay its bills within a specified number of days and to make such payments in cash or the equivalent of cash.

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- 2.8 3 In determining whether a Customer presents an undue risk of nonpayment, the Company shall consider the following factors. (A) the Customer's payment history (if any) with the Company and its affiliates, (B) Customer's ability to demonstrate adequate ability to pay for the Service, (C) credit and related information provided by Customer, lawfully obtained from third parties or publicly available, and (D) information relating to Customer's management, owners and affiliates (if any)
- 2 8 4. Disputes with respect to charges must be presented to the Company in writing within thirty days from the date the invoice is rendered or such invoice will be deemed to be correct and binding on the Customer.
- 2.8 5 If a LEC has established or establishes a Special Access surcharge, the Company will bill the surcharge beginning on the effective date of such surcharge for Special Access arrangements presently in Service The Company will cease billing the Special Access surcharge upon receipt of an Exemption Certificate or if the surcharge is removed by the LEC
- 2 8 6. In the event the Company incurs fees or expenses, including attorney's fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.
- 2 8 7. Company will not require deposits or advance payments by Customers for Services.
- 2 9. Assignment
- 2 9.1. The obligations set forth in this Tariff shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns, provided, however, the Customer shall not assign or transfer its rights or obligations without the prior written consent of the Company.
- 2 10 Tax and Fee Adjustments
- 2.10 1. All state and local taxes (i e , gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates.
- 2.10 2 If at any future time a municipality acquires the legal right to impose an occupation tax, license tax, permit fee, franchise fee or other similar charge upon the Carrier, and imposes the same by ordinance or otherwise, such taxes, fees or charges shall be billed to the end users receiving service within the territorial limits of such municipality Such billing shall allocate the tax, fee or charge among end users uniformly on the basis of each end user's monthly charges for the types of service made subject to such tax, fee or charge.

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- 2 10 3. If at any future time a county or other local taxing authority acquires the legal right to impose an occupation tax, license tax, permit fee, franchise fee or other similar charge upon the Carrier, and imposes the same by ordinance or otherwise, such taxes, fees or charges shall be billed to the end users receiving service within the territorial limits of such county or other taxing authority. Such billing shall allocate the tax, fee or charge among end users uniformly on the basis of each end user's monthly charges for the types of service made subject to such tax, fee or charge.
- 2 10 4 When utility or telecommunications assessments, franchise fees, or privilege, license, occupational, excise, or other similar taxes or fees, based on interstate or intrastate receipts are imposed by certain taxing jurisdictions upon the Company or upon local exchange companies and passed on to the Company through or with interstate or intrastate access charges, the amounts of such taxes or fees will be billed to Customers in such a taxing jurisdiction on a prorated basis. The amount of charge that is prorated to each Customer's bill is determined by the interstate or intrastate telecommunications service provided to and billed to an end user/customer service location in such a taxing jurisdiction with the aggregate of such charges equal to the amount of the tax or fee imposed upon or passed on to the Company.
- 2 10 5 When any municipality, or other political subdivision, local agency of government, or department of public utilities imposes upon and collects from the Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee or regulatory fee, such taxes and fees shall, insofar as practicable, be billed pro rata to the Company's Customers receiving service within the territorial limits of such municipality, other political subdivision, local agency of government, or public utility TRA
- 2 10 6 The Company may adjust its rates and charges or impose additional rates and charges on its Customers in order to recover amount it is required by governmental or quasi-governmental authorities to collect from or pay to others in support of statutory or regulatory programs. Examples of such programs include, but are not limited to, the Universal Service Fund, the Primary Interexchange Carrier Charge, and compensation to payphone service providers for use of their payphones to access the Company's services.

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2 11 Method for Calculation of Airline Mileage

2 11 1. The airline mileage between two cities can be calculated using the Vertical (V) and Horizontal (H) coordinates of the serving wire centers associated with the Company's POP locations. The method for calculating the airline mileage is obtained by reference to AT&T's Tariff F.C.C No. 10 in accordance with the following formula.

$$\text{the square root of.} \quad \frac{(V1 - V2)^2 + (H1 + H2)^2}{10}$$

where V1 and H1 correspond to the V&H coordinates of City 1 and V2 and H2 correspond to the V&H coordinates of City 2

Example:

	<u>V</u>	<u>H</u>
City 1	5004	1406
City 2	5987	3424

$$\text{the square root of} \quad \frac{(5004-5987)^2 + (1406-3424)^2}{10}$$

The result is 709.83 miles. Any fractional miles are rounded to the next higher whole number, therefore, the airline mileage for this example is 710 miles

2 12. Time of Day Rate Periods

2 12 1. Time of Day Rate Periods are determined by the time of day at the location of the Calling Station

The rates shown in Section 4 apply as follows:

DAY: From 8:01 AM to 5 00 PM Monday - Friday

EVENING From 5 01 PM to 11:00 PM Monday - Friday and Sunday

NIGHT/  
WEEKEND. From 11.01 PM to 8:00 AM Everyday  
From 8:01 AM to 11.00 PM Saturday  
From 8.01 AM to 5 00 PM Sunday

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2 13. Special Customer Arrangements

2 13.1 In cases where a Customer requests a special or unique arrangement which may include engineering, conditioning, Installation, construction, facilities, assembly, purchase or lease of facilities and/or other special Services not offered under this Tariff, the Company, at this option, may provide the requested Services. Appropriate recurring charges and/or Nonrecurring Charges and other terms and conditions will be developed for the Customer for the provisioning of such arrangements.

2 14. Inspection

2 14.1. The Company may, upon notice, make such tests and inspections as may be necessary to determine that the requirements of this Tariff are being complied with in the Installation, operation or maintenance of Customer or the Company equipment. The Company may interrupt the Service at any time, without penalty to the Company, should Customer violate any provision herein.

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3 DESCRIPTION OF SERVICES

3 1. Wide Area ("WATS") and Message ("MTS") Toll Services

3 1 1. The Company offers WATS and MTS intrastate interexchange long distance service utilizing switched or dedicated access arrangements between the Customers Premises and the Company's facilities for call origination. Call termination is completed through a combination of Company facilities and LEC switched access arrangements.

3 2. Switched Inbound Service

3 2.1 Switched inbound service permits inward calling (via 800 codes) to a specific location utilizing premium switched, Feature Group D access on both ends

3 3 Dedicated Inbound Service

3 3 1. Dedicated inbound service permits inward calling (via 800 codes) to a specific location featuring the use of a dedicated, special access type connection on the terminating end. The Customer shall be responsible for all LEC charges in addition to the Recurring, Non-recurring and Usage charges set forth hereinafter.

3 4. Switched Outbound Service

3.4.1 Switched outbound services permits outward calling utilizing premium switched Feature Group D access on both the originating and terminating ends.

3 5 Dedicated Outbound Service

3 5 1 Dedicated outbound service permits outward calling to stations in diverse service areas. Dedicated outbound service is distinguished from other services by the existence of a dedicated, special access connection on one end. The Customer shall be responsible for all LEC charges in addition to the Recurring, Non-recurring and Usage charges set forth hereinafter.

3 6 Calling Card Service

3 6 1 The Company's Calling Card Service is a customized calling card service with features including voice response or touch-tone dialing. Customers may pay both a per card surcharge and a measured usage charge for each call. Customers access the service through an "800" number established by the Company.

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3.7 Timing of Calls

3.7.1. Long distance usage charges are based on the actual usage of the Company network. Chargeable time begins when a connection is established between the Calling Station and the Called Station. Chargeable time ends when either party "hangs up" thereby releasing the network connection.

3.7.2 Unless otherwise specified in this Tariff, the minimum call duration for billing purposes is thirty (30) seconds. In addition, unless otherwise specified in this Tariff, usage is measured thereafter in six (6) second increments and rounded to the next higher six (6) second period.

3.8. Minimum Call Completion Rate

3.8.1 A Customer can expect a call completion rate of not less than 90% during peak use periods for all services.

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4 RATES AND CHARGES

4 1 Usage Rates

4 1 1 The following are usage charges which apply to all calls

4 1 2 Customers shall incur an additional activation fee of \$1 50, along with a monthly recurring billing charge equal to \$1 50.

4 1 3 Customers will incur a \$5 00 monthly service charge The Company may waive this charge for all Farm Bureau® members

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4 2. 1+ Switched Inbound Usage Rates

DAY/EVENING/NIGHT/WEEKEND

Mileage	Initial 18 Seconds	Additional 6 Seconds
ALL	\$0.0297	\$0 0099

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4.3 Dedicated Inbound Usage Rates

Reserved for future use

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4 4. Switched Outbound Usage Rates

**DAY/EVENING/NIGHT/WEEKEND**

<b>Mileage</b>	<b>Initial 18 Seconds</b>	<b>Additional 6 Seconds</b>
ALL	\$0 0207	\$0 0069

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4.5. Dedicated Outbound Usage Rates

Reserved for future use.

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4 6 Calling Card Usage Rates

**DAY/EVENING/NIGHT/WEEKEND**

<b>Mileage</b>	<b>Initial 60 Seconds</b>	<b>Additional 6 Seconds</b>
ALL	\$0 1390	\$0.0139

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4 7. Special Promotional Offering

4 7.1 The Company may from time to time engage in Special Promotional Offerings or Trial Service Offerings limited to certain dates, times or locations designed to attract new subscribers or increase subscriber usage when approved by TRA. Company will not have special promotional offerings for more than 90 days in any 12-month period. In all such cases, the rates charged will not exceed those specified in Section 4 hereof

4 8. Emergency Calls

4 8 1. Customer shall configure its PBX or other switch vehicle from which a customer places a call so that 911 emergency calls, where available, and similar emergency calls will be automatically routed to the emergency answering point for the geographical location where the call originated without the intervention of Company

4 9. Payphone Use Service Charge

4 9.1 A Payphone Use Service Charge applies to each completed interLATA and intraLATA non-sent paid message made over a pay phone owned by a utility or Customer Owned Pay Telephone (COPT) Service. This includes calling card service, collect calls, calls billed to a third number, completed calls to Directory Assistance and Prepaid Card Service calls. This charge is collected on behalf of the pay phone owner. All Customers will pay the Company a per call service charge of \$0.29

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4 10. Universal Connectivity Charge

4 10.1 Services provided pursuant to this tariff are subject to an undiscountable monthly Universal Connectivity Charge. This monthly service charge is a percent of the Customer's total net intrastate, interstate and international charges, after application of all applicable discounts and credits, equal to the current FCC Contribution Factor.

4 10 1 A The Company will waive the Universal Connectivity Charge with respect to specifically identified Company charges to the extent that the Customer demonstrates to the Company's reasonable satisfaction that.

1. the Customer has filed a Universal Service Worksheet with the Universal Service Administrator covering the twelfth month prior to the month for which the Customer seeks the waiver,
2. the charges with respect to which the waiver is sought are for services purchased by Customer for resale; and
3. the Customer will file a Universal Service Worksheet with the Universal Service Administrator in which the reported billed revenues will include all billed revenues associated with the Customer's resale of services purchased from the Company.

4 10 1 B. The Universal Connectivity Charge will not be waived with respect to:

- 1 charges for services purchased by the Customer for its own use as an end user; or
2. charges for which the bill date is on, prior to, or within fifteen days after, the date on which the Customer applies for a waiver with respect to those charges

4 11. Rates Applicable for Hearing/Speech Impaired Persons

4.11 1 A telephone toll message which is communicated using a telecommunications device for the deaf (TDD) by properly certified hearing or speech impaired persons or properly certified business establishments or individuals equipped with TDDs for communicating with hearing or speech impaired persons will receive upon request credit on charges for all intrastate-interLATA toll calls placed between TDDs. The credit to be given on a subsequent bill for such calls placed between TDDs will be 50% of the billed charges

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Issued

Effective

Issued by Casimir Wojcichowski, President  
IBFA ACQUISITION COMPANY, LLC  
D/B/A FARM BUREAU CONNECTION  
1850 Howard Street, Unit C  
Elk Grove Village, IL 60007